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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/207,224	12/08/1998	WILLIAM A. FEININGER	28049/34693	6499

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EXAMINER

LONSBERRY, HUNTER B

ART UNIT PAPER NUMBER

2611

DATE MAILED: 09/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

TX

Office Action Summary

Application No.

09/207,224

Applicant(s)

FEININGER ET AL.

Examiner

Hunter B. Lonsberry

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-83 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-20 and 45-83 is/are allowed.
- 6) ☒ Claim(s) 21-44 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 1998 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-22, 33 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,005,561 to Hawkins in view of U.S. Patent 5,958,004 to Helland and U.S. Patent 6,434,447 to Shteyn.

Regarding claims 21 and 37, Hawkins discloses a viewer profiling/EPG system that monitors the programs a user watches (column 23, lines 5-10). The EPG contains channel and program data which is used by a user to tune to a MPEG-2 stream PID (column 13, lines 43-55, column 14, lines 12-33, column 19, lines 27-45, column 23, lines 14-18). Hawkins does not disclose determining if there is a COM or API interface on a viewing device and determining channel data via the interface. The examiner takes official notice that a user-viewing device may run a Microsoft windows based OS. Helland discloses a run time environment which exchanges data within a program and uses both a COM interface and API interface to interact with various parts of a program and transfer data as well as look up data on functions being preformed (column 20, line 1-column 21, line 31). Shteyn discloses utilizing OLE Automation or java for interacting with a tuner device (column 9, lines 20-59). Therefore it would have been obvious to one skilled in the art at the time of invention to modify Hawkins to utilize the COM and

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API interfaces of Helland in order to take advantage of the COM and API functions which interact with user hardware as taught by Shtyen to initialize a call to the hardware in order to read the channel data associated with a video application.

Regarding claim 22, Hawkins discloses determining a program from data stored in a program guide (column 13, lines 43-55, column 14, lines 12-33, column 19, lines 27-45, column 23, lines 14-18).

Regarding claim 33, Hawkins discloses a viewer profiling/EPG system which monitors the programs a user watches (column 23, lines 5-10). The EPG contains channel and program data which is used by a user to tune to a MPEG-2 stream PID (column 13, lines 43-55, column 14, lines 12-33, column 19, lines 27-45, column 23, lines 14-18).

Claims 23-32, and 38-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,005,561 to Hawkins in view of U.S. Patent 5,958,004 to Helland and U.S. Patent 6,434,447 to Shteyn in further view of U.S. Patent 6,115,680 to Coffee.

Regarding claims 23 and 38, Hawkins discloses a viewer profiling/EPG system that monitors the programs a user watches (column 23, lines 5-10). The combined system of Hawkins, Helland and Shtyen do not disclose determining channel data from window controls within a viewing application. Coffee discloses reading the text content of window title bars in order to meter a user's activities online (column 11, lines 22-48). Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combined system of Hawkins, Helland and Shtyen to read the title bars of

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viewer windows in order to determine channel data when API or COM interfaces are unavailable.

Regarding claims 24, 28, 39, and 43, Hawkins discloses determining a program from data stored in a program guide (column 13, lines 43-55, column 14, lines 12-33, column 19, lines 27-45, column 23, lines 14-18).

Regarding claims 25-27 and 40-42, Coffee discloses that the meter program finds both an application window and a top window and logs the title bar information (column 11, lines 22-48). Coffee does not disclose reading a channel related child window to determine channel information. Shteyn discloses utilizing OLE Automation or java for interacting with a tuner device (column 9, lines 20-59). The examiner takes official notice that TV Tuners, which are installed on a PC, may use a channel window to tune to a channel and the use of a call back function to find a specific window is well known in the art. Therefore, it would have been obvious to one skilled in the art to modify Coffee to read a channel window and use a callback function to find a specific window which is used to tune to a tuner to a selected program as taught by Shtyen thereby enabling the logging program of Coffee to store data on the programs a user is watching.

Regarding claim 29, Coffee discloses that the viewing device is a computer (column 11, lines 23-46).

Regarding claim 30, Hawkins discloses that the viewing device is a TV (Figure 4).

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Regarding claim 31, Hawkins discloses the use of a TV with a user terminal (column 12, lines 25-46). Hawkins does not disclose combining the TV with a STB. The examiner takes official notice that the combination of a set top box and a TV is well known in the art. Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Hawkins to combine the TV with a STB into one unit thereby reducing the number of cables a user would have to connect in order to operate the device.

Regarding claims 32 and 44, Hawkins discloses a viewer profiling/EPG system which monitors the programs a user watches (column 23, lines 5-10). Hawkins, Helland, Shtyen and Coffee do not disclose utilizing Java as an operating system. The examiner takes official notice that the use of Java as an embedded OS used in a STB to run an EPG and tuner functions is well known in the art. Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combined system of Hawkins, Helland, Shtyen and Coffee to utilize Java as an OS and its related calls in order to retrieve channel data thereby maximizing memory available in a STB because of the low memory requirements of Java.

Regarding claim 33, Hawkins discloses a viewer profiling/EPG system which monitors the programs a user watches (column 23, lines 5-10). The EPG contains channel and program data which is used by a user to tune to a MPEG-2 stream PID (column 13, lines 43-55, column 14, lines 12-33, column 19, lines 27-45, column 23, lines 14-18).

Claims 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,005,561 to Hawkins in view of U.S. Patent 6,434,447 to Shteyn.

Regarding claims 34 and 35, Hawkins discloses a viewer profiling/EPG system which monitors the programs a user watches and tunes to a program via PID information stored in the EPG (column 13, lines 43-55, column 14, lines 12-33, column 19, lines 27-45, column 23, lines 14-18, column 23, lines 5-10). Hawkins does not disclose the use of device drivers for a video tuning card to determine the identification code for a program. Shteyn discloses a HAVi system in which a user utilizes a GUI to interact with a tuner and utilizes OLE Automation (column 9, line 1-59). Shteyn inherently uses a driver to communicate with the tuner, as software is required to receive and interpret commands received from a user from information presented by the GUI. Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Hawkins to utilize the OLE enabled tuner of Shteyn to communicate PID information for monitoring purposes as the OLE Automation interface can be controlled remotely.

Regarding claim 36, Hawkins discloses a viewer profiling/EPG system which monitors the programs a user watches and tunes to a program via PID information stored in the EPG (column 13, lines 43-55, column 14, lines 12-33, column 19, lines 27-45, column 23, lines 14-18, column 23, lines 5-10).

Allowable Subject Matter

Claims 1-20 and 45-83 are allowed.

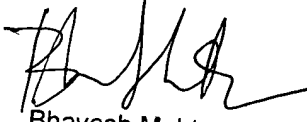
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 703-305-3234. The examiner can normally be reached on Monday-Thursday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-5359 for regular communications and 703-372-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

HBL
September 5, 2002


Bhavesh Mehta
Primary Examiner